

1
2
3
4
5
6
7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**
9

10 JAMES I. WYATT,

11 Plaintiff,

12 vs.

13 CAROLYN W. COLVIN,
Commissioner of Social Security,

14 Defendant.

CASE NO. 13cv1972-WQH-
NLS

ORDER

15 HAYES, Judge:

16 The matter before the Court is the review of the Report and Recommendation
17 (ECF No. 16) issued by United States Magistrate Judge Nita L. Stormes, recommending
18 that Plaintiff's Motion for Summary Judgment (ECF No. 12) be denied and Defendant's
19 Cross-Motion for Summary Judgment (ECF No. 15) be granted.

20 **BACKGROUND**

21 On October 20, 2009, Plaintiff filed an application for disability insurance
22 benefits, alleging disability beginning July 10, 2008. Plaintiff's claim was denied at the
23 initial level and upon reconsideration. Plaintiff then requested a hearing before an
24 administrative law judge ("ALJ"), which was held on May 10, 2011. On September 16,
25 2011, the ALJ issued a written decision finding that Plaintiff had been under a
26 disability, as defined in the Social Security Act, from July 10, 2008 through April 11,
27 2011, and Plaintiff's disability ended April 12, 2011. (Admin. Rec. 27-38, ECF No. 10-
28 2). On May 30, 2013, the Appeals Council for the Social Security Administration

1 denied Plaintiff's request for further review.

2 On August 23, 2013, Plaintiff, represented by counsel, commenced this action
3 seeking judicial review of Defendant's decision pursuant to 42 U.S.C. § 405(g).
4 On February 6, 2014, Plaintiff filed a Motion for Summary Judgment. (ECF No. 12).
5 On April 7, 2014, Defendant filed a Cross-Motion for Summary Judgment. (ECF No.
6 15).

7 On June 16, 2014, the Magistrate Judge issued the Report and Recommendation.
8 (ECF No. 16). The Report and Recommendation recommends that Plaintiff's Motion
9 for Summary Judgment be denied and Defendant's Cross-Motion for Summary
10 Judgment be granted. The Magistrate Judge found, *inter alia*, that the ALJ "offered
11 several clear and convincing reasons to justify his determination that Plaintiff's
12 subjective description of his limitations and pain was not credible." *Id.* at 13. The
13 Report and Recommendation states that any objections to the Report and
14 Recommendation must be filed no later than June 30, 2014, and "[t]he parties are
15 advised that failure to file objections within the specified time may waive the right to
16 appeal the Court's order." *Id.* at 13-14 (citation omitted).

17 The docket reflects that no objections to the Report and Recommendation have
18 been filed.

19 REVIEW OF THE REPORT AND RECOMMENDATION

20 The duties of the district court in connection with a report and recommendation
21 of a magistrate judge are set forth in Federal Rule of Civil Procedure 72(b) and 28
22 U.S.C. § 636(b). The district judge must "make a *de novo* determination of those
23 portions of the report ... to which objection is made," and "may accept, reject, or
24 modify, in whole or in part, the findings or recommendations made by the magistrate."
25 28 U.S.C. § 636(b). The district court need not review *de novo* those portions of a
26 Report and Recommendation to which neither party objects. *See Wang v. Masaitis*, 416
27 F.3d 992, 1000 n.13 (9th Cir. 2005); *U.S. v. Reyna-Tapia*, 328 F.3d 1114, 1121-22 (9th
28 Cir. 2003) (en banc).

1 After review of the Report and Recommendation, the written opinion of the ALJ,
2 the administrative record, and the submissions of the parties, the Court concludes that
3 the Magistrate Judge correctly found that the ALJ's decision is supported by substantial
4 evidence and the ALJ applied the correct legal standards.

5 CONCLUSION

6 IT IS HEREBY ORDERED that: (1) the Report and Recommendation (ECF No.
7 16) is ADOPTED in its entirety; (2) Plaintiff's Motion for Summary Judgment (ECF
8 No. 12) is DENIED; and (3) Defendant's Cross-Motion for Summary Judgment (ECF
9 No. 15) is GRANTED. The Clerk of the Court shall enter judgment for Defendant and
10 against Plaintiff.

11 DATED: July 14, 2014

12 
13 **WILLIAM Q. HAYES**
14 United States District Judge
15
16
17
18
19
20
21
22
23
24
25
26
27
28